

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PATRICIA COTTEN,
Plaintiff,

CIVIL ACTION NO. 04-CV-73508-DT

vs.

DISTRICT JUDGE GERALD E. ROSEN

SHERRY L. BURT, et al.,
Defendants.

MAGISTRATE JUDGE MONA K. MAJZOUB

_____/

ORDER DENYING PLAINTIFF'S MOTION TO COMPEL DISCOVERY

This matter comes before the Court on Plaintiff's Motion for Objections for Propounding Incomplete and Incorrect Disclosure filed on January 4, 2007. (Docket no. 59). Plaintiff claims that Defendants' counsel failed to properly respond to her interrogatory requests and requests for production of documents. The Court will therefore treat Plaintiff's motion as a motion to compel discovery under Fed. R. Civ. P. 37(a). Defendants have responded to the motion. (Docket no. 60). All pretrial matters have been referred to the undersigned for decision under 28 U.S.C. § 636(b)(1)(A). (Docket no. 3). The matter is therefore ready for ruling.

Plaintiff contends that she served upon Defendants' counsel interrogatories and requests for production of documents on October 24, 2006. Plaintiff requested a copy of prison operating procedures. She claims that Defendants failed to produce them. Plaintiff also contends that Defendants failed to properly respond to an interrogatory inquiring about Warden Burt's duties as Warden. (Docket no. 59 at 2-3). Plaintiff requests that the Court order Defendants to make proper disclosures of the requested information.

Defendants object to Plaintiff's motion on several grounds. They point out that Plaintiff failed to attach a copy of their responses to Plaintiff's discovery requests or provide a verbatim recitation of

their responses. This Court's Local Rule 37.2 requires any discovery motion to include this information. Also, this Court's Local Rule 7.1(a) requires a movant to seek concurrence from opposing counsel for the motion and state in the motion whether or not counsel conferred about the motion. Defendants point out that Plaintiff failed to comply with this requirement because she failed to seek a conference with Defendants' counsel before filing this motion, and her motion fails to mention a conference. Finally, Fed. R. Civ. P. 37(a)(2)(A) requires a moving party to include in its motion to compel a certification that the movant has conferred or sought to confer with opposing counsel to attempt to resolve the matter without court intervention. Plaintiff's motion fails to comply with this requirement as well.

The Court finds that Plaintiff's motion is defective for its failure to comply with this Court's Local Rules 37.2 and 7.1(a), as discussed above. Also, the motion is not in compliance with Fed. R. Civ. P. 37(a)(2)(A). With regard to Plaintiff's duty to show the Court the response made by the Defendants, the Court is aware that Plaintiff quotes in her motion from Defendants' response to one interrogatory concerning the Warden's duties. However, even if this is a complete recitation of the response to that interrogatory, the motion nevertheless fails to properly show Defendants' response to Plaintiff's request for the production of a copy of the prison operating procedures. The Court cannot decide whether Defendants properly responded to the discovery request without Plaintiff including the response or adequately describing Defendants' response in the motion. The fact that Plaintiff is proceeding *pro se* does not excuse her failure to follow these court rules which are designed to provide the Court with the facts necessary to rule on the merits of this motion. *Termarsch v. Fabrizio & Brook, P.C.*, 2006 WL 3313744 (E.D. Mich. Nov. 15, 2006).

For these reasons, Plaintiff's motion to compel discovery will be denied.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Objections for Propounding Incomplete and Incorrect Disclosure (docket no. 59) is **DENIED**.

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: January 22, 2007

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Order was served upon Patricia Cotten and Counsel of Record on this date.

Dated: January 22, 2007

s/ Lisa C. Bartlett
Courtroom Deputy